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August 23, 2023

**VIA ELECTRONIC MAIL**

The Honorable Richard Blumenthal  
Chairman  
Permanent Subcommittee on Investigations

*Re: August 16, 2023 Letter to His Excellency Yasir bin Othman Al-Rumayyan*

Dear Senator Blumenthal:

I write on behalf of my client, the Public Investment Fund of the Kingdom of Saudi Arabia (the “PIF”) and its Governor His Excellency Yasir bin Othman Al-Rumayyan (“HE”), in response to your letter of August 16, 2023 (the “August 16 Letter”). As we have described to the Subcommittee in multiple letters and communications with staff, the PIF and HE appreciate the Subcommittee’s interest in the Framework Agreement, dated as of May 30, 2023, by and among PGA Tour, Inc., DP World Tour, and the PIF (the “Agreement”), regarding a potential transaction involving the parties to the Agreement, and this potential transaction’s implications for the future of professional golf. The PIF and HE remain interested in working cooperatively with the Subcommittee to ensure that it receives the information necessary to carry out its inquiry, and we hope that the Subcommittee is equally interested in working to ensure a mutually respectful and productive course of engagement.

To that end, the PIF has repeatedly informed the Subcommittee—including in my letter of June 28, our telephone discussion of June 29, my email of July 10, and my most recent letter of August 4—that we would be pleased to provide a factual briefing regarding the Agreement from an appropriate representative of the PIF at the Subcommittee’s convenience. We continue to be prepared to do so, and stand ready to work with your staff to confirm that briefing and its parameters. We note, however, that at this time no definitive deal has been reached between the parties to the Agreement, as negotiations continue.

Although you and Ranking Member Johnson initially invited HE to appear at a hearing concerning the Agreement, we understand from your most recent letters that the intended inquiry is, in fact, much broader, spanning more than eight years and encompassing every interest,



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investment, and planned investment the PIF has in the United States. You are correct that the PIF provides significant financial support to innovative businesses and entrepreneurs in the United States and elsewhere. The PIF itself has invested billions of dollars in the United States in recent years. Indeed, its order with Boeing of up to seventy-two 787-9 Dreamliner aircraft, part of the top five largest commercial orders by value in Boeing's history, will alone enable the creation of thousands of U.S. jobs and the expansion of one of the United States' most significant industries.

The PIF is proud of its investments, and believes that its support for forward-thinking companies will facilitate growth, economic opportunity, and job creation in the United States, the Kingdom of Saudi Arabia, and around the world. As the governor of an instrumentality of the Kingdom of Saudi Arabia and a minister bound by the Kingdom's laws regarding the confidentiality of certain information, however, HE cannot participate in any public hearing that is part of an unbounded inquiry into the PIF's past, present, and future interests and investments.

In your August 16 Letter, you state that, if HE declines to appear at a hearing voluntarily, the Subcommittee will consider "other legal methods to compel . . . compliance." Such an effort would be unprecedented—to our knowledge, no committee of Congress has ever used compulsory process to compel the presence and testimony of a foreign official.

The absence of any precedent is not surprising. The principles of sovereign immunity and international comity protect the interests of sovereign states and their instrumentalities—including the United States—across the globe. Relations among sovereign states and their instrumentalities must be undertaken in the spirit of mutual respect and comity. An unprecedented effort by the Subcommittee to compel HE's appearance and testimony would not only disrupt the delicate balance of foreign relations and international diplomacy, but would also compromise the prerogatives of the Executive Branch.

Your August 16 Letter suggests that these bedrock principles do not apply because the Subcommittee is focused on "commercial" activity. We respectfully disagree. That assertion artificially imposes a construct applicable to certain civil litigation involving foreign states and sovereign entities onto a first-of-its-kind effort to compel the testimony of a senior foreign official before the U.S. Congress. Even in the civil litigation context, HE's individual immunity derives not from the Foreign Sovereign Immunities Act, but from the common law, which historically has not been subject to an exception for commercial activity.<sup>1</sup>

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<sup>1</sup> I note that the district court order you reference in your August 16 Letter was under appeal when the proceedings were dismissed and was expressly vacated, as moot. *See* Order Approving Stipulation of Dismissal at 1, No. 33-cv-04486 (N.D. Cal. June 20, 2023), ECF No. 463. No case, other than this now-vacated ruling, has held that a commercial activity exception applies to common-law foreign official immunity. To the contrary, courts have





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Moreover, your characterization of the PIF's investment activity as entirely removed from principles of sovereignty and comity misunderstands the nature of a sovereign investment fund, which is, by definition, an instrumentality of a foreign state focused on preserving its national financial security and its people's future. Indeed, as publicly and clearly made available, the PIF's statutory mandate is to invest "its funds" for "the purpose of serving public interest; promoting economic development in the Kingdom and diversifying its sources of income; and maintaining the interest of future generations."<sup>2</sup> In accordance with its mandate, the PIF plays a central role in implementing national economic reforms and safeguarding financial security for the Kingdom and its people. The Subcommittee's acknowledged intent to probe the PIF's internal deliberations as to its investments abroad makes clear that the PIF's sovereign interests are squarely within the scope of the contemplated inquiry. As we have stated, the information requested is subject to multiple Saudi laws protecting its confidentiality, very much akin to laws protecting the sensitive information and deliberative processes of the United States government and its instrumentalities.

Your suggestion that you would engage in an unprecedented effort to compel HE's public testimony on a subject over which Saudi laws restrict the disclosure of information raises significant concerns that the Subcommittee is not affording due respect to the sovereignty and diplomatic interests at play, to say nothing of the risk posed to continued foreign investment in the United States. Despite those concerns, the PIF and HE remain willing to continue to work with the Subcommittee to assist with its inquiry as it concerns the Agreement. We continue to believe that a factual briefing on the Agreement would be productive, as it will provide the Subcommittee with information pertinent to its inquiry without compromising sovereign interests. Accordingly, we look forward to working expeditiously with Subcommittee staff to address the details and parameters of that briefing and would be pleased to schedule it at a mutually agreeable date and time in September.

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held that common-law foreign official immunity "exceed[s] that of the state: even if the state could be sued for an official's acts" under the FSIA "the official himself could not be." *See, e.g., Weiming Chen v. Ying-Jeou Ma*, 2013 U.S. Dist. LEXIS 118668, at \*11-12 (S.D.N.Y. Aug. 19, 2013) ("[T]he [FSIA's] commercial activity exception does not apply to a foreign official who has undertaken a commercial transaction on behalf of his state."). The district court's ruling as to international comity with respect to the confidentiality laws of the Kingdom of Saudi Arabia was likewise under appeal when the case was dismissed and likewise vacated as moot.

<sup>2</sup> PIF Law (Apr. 17, 2019), Art. 3, *available at* [https://www.pif.gov.sa/\\_catalogs/masterpage/PIF2021/html/images/PIF%20Law%20Documents-En\[1\]\[1\].pdf](https://www.pif.gov.sa/_catalogs/masterpage/PIF2021/html/images/PIF%20Law%20Documents-En[1][1].pdf).

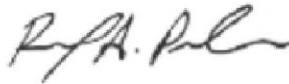
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Please let me know if you have any questions.

Sincerely,



Raphael A. Prober  
Counsel for the PIF

cc: The Honorable Ron Johnson  
Ranking Member